



6712-01

FEDERAL COMMUNICATIONS COMMISSION

[DA 12-425]

Notice of Suspension and Commencement of Proposed Debarment Proceedings; Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the “Bureau”) gives notice of Ms. Gloria F. Harper’s suspension from the schools and libraries universal service support mechanism (or “E-Rate Program”). Additionally, the Bureau gives notice that debarment proceedings are commencing against her. Ms. Harper, or any person who has an existing contract with or intends to contract with her to provide or receive services in matters arising out of activities associated with or related to the schools and libraries support, may respond by filing an opposition request, supported by documentation to Joy Ragsdale, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4-C330, 445 12th Street, SW., Washington, DC 20554.

DATES: Opposition requests must be received by 30 days from the receipt of the suspension letter or **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, whichever comes first. The Bureau will decide any opposition request for reversal or modification of suspension or debarment within 90 days of its receipt of such requests.

ADDRESSES: Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4-C330, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joy Ragsdale, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4-C330, 445 12th Street, SW., Washington, DC 20554. Joy Ragsdale may be contacted by phone at (202) 418-1697 or e-mail at Joy.Ragsdale@fcc.gov. If Ms. Ragsdale is unavailable, you may contact Ms.

Theresa Cavanaugh, Acting Chief, Investigations and Hearings Division, by telephone at (202) 418-1420 and by e-mail at Theresa.Cavanaugh@fcc.gov.

SUPPLEMENTARY INFORMATION: The Bureau has suspension and debarment authority pursuant to 47 CFR 54.8 and 47 CFR 0.111(a)(14). Suspension will help to ensure that the party to be suspended cannot continue to benefit from the schools and libraries mechanism pending resolution of the debarment process. Attached is the suspension letter, DA 12-452, which was mailed to Ms. Harper and released on March 22, 2012. The complete text of the notice of suspension and initiation of debarment proceedings is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portal II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554, In addition, the complete text is available on the FCC's Web site at <http://www.fcc.gov>. The text may also be purchased from the Commission's duplicating inspection and copying during regular business hours at the contractor, Best Copy and Printing, Inc., Portal II, 445 12th Street, SW., Room CY-B420, Washington, DC 20554, telephone (202) 488-5300 or (800) 378-3160, facsimile (202) 488-5563, or via e-mail <http://www.bcpweb.com>.

FEDERAL COMMUNICATIONS COMMISSION.

Theresa Z. Cavanaugh,
Acting Chief, Investigations and Hearings Division, Enforcement Bureau

March 22, 2012

DA 12-452

SENT VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

AND EMAIL

Ms. Gloria F. Harper
c/o Ms. Cynthia Marie Cimino
Federal Public Defender
Hale Boggs Federal Building
500 Poydras St., Room 318
New Orleans, LA 70130

Re: Notice of Suspension and Initiation of Debarment Proceeding

File No. EB-12-IH-0400

Dear Ms. Harper:

The Federal Communications Commission (Commission or FCC) has received notice of your guilty plea for conspiracy to defraud the United States in violation of 18 U.S.C § 371 in connection with your participation in the federal schools and libraries universal service support mechanism (E-Rate program).¹ Consequently, pursuant to 47 C.F.R. § 54.8, this letter constitutes

¹ Any further reference in this letter to “your conviction” refers to your guilty plea and subsequent sentencing for conspiracy to defraud the United States in *United States v. Gloria F. Harper*, Criminal Docket No. 2:10-cr-00326-CJB-ALC, Plea Agreement (E.D. La. filed June 2, 2011 and entered June 6, 2011) (*Plea Agreement*).

official notice of your suspension from the E-Rate program.² In addition, the Enforcement Bureau (Bureau) hereby notifies you that the Bureau will commence debarment proceedings against you.³

I. Notice of Suspension

The Commission has established procedures to prevent persons who have “defrauded the government or engaged in similar acts through activities associated with or related to the [E-Rate program]” from receiving the benefits associated with that program.⁴ Schools may receive E-Rate program funding for eligible goods and services by filing application forms, seeking competitive bids, and selecting the most cost-effective vendor.⁵ The E-Rate program rules require school applicants to pay a percentage of the total cost of eligible goods and services requested for funding.⁶ The E-Rate program rules prohibit an E-Rate vendor or anyone associated with an E-Rate vendor from participating in the application process or vendor selection.⁷

² 47 CFR 54.8.

³ *Id.* 0.111 (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the E-Rate program in 2003. *See Schools and Libraries Universal Service Support Mechanism*, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202 (2003) (*Second Report and Order*) (adopting Section 54.521 to suspend and debar parties from the E-Rate program). In 2007 the Commission extended the debarment rules to apply to all federal universal service support mechanisms. *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Rural Health Care Support Mechanism; Lifeline and Link Up; Changes to the Board of Directors for the National Exchange Carrier Association, Inc.*, Report and Order, 22 FCC Rcd 16372, App. C at 16410-12 (2007) (*Program Management Order*) (renumbering Section 54.521 of the universal service debarment rules as Section 54.8 and amending subsections (a)(1), (a)(5), (c), (d), (e)(2)(i), (e)(3), (e)(4), and (g)).

⁴ *Second Report and Order*, 118 FCC Rcd at 9225, para. 66; *Program Management Order*, 22 FCC Rcd at 16387, para. 32. The Commission’s debarment rules define a “person” as “[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however organized.” 47 CFR 54.8(a)(6).

⁵ 47 CFR 54.504, 54.511(c).

⁶ *Id.* 54.505, 54.523.

⁷ *See Request for Review by Mastermind Internet Services, Inc., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket

On June 6, 2011, you pled guilty to knowingly and willfully orchestrating multiple fraudulent schemes and conspiring with others to defraud the E-Rate program through the submission of materially false and fraudulent documents, concealment of material facts, and obstruction and manipulation of the competitive bidding process involving schools and school districts located in six states.⁸ You participated in the conspiracy as the owner of Computer Training and Associates (CTA) and co-owner of Global Networking Technologies, Inc. (GNT).⁹ Specifically, from approximately December 2001 through September 2005, you and a co-conspirator violated E-Rate program rules by completing, submitting, and fraudulently signing E-Rate program applications (FCC Forms 470, 471, and 486) on behalf of school applicants.¹⁰ You also conspired to bribe school officials in exchange for their ceding control of the schools' competitive bidding processes to your companies.¹¹ In further violation of the E-Rate rules, you promised school applicants that their required payments would be waived if they chose CTA or GNT as the schools' E-Rate service provider.¹² You also did not disclose your involvement in the application process or the promised waivers to the Universal Service Administrative Company.¹³ CTA and GNT directly benefited from your fraudulent schemes by receiving approximately \$4.5

No. 96-45, Order, 16 FCC Rcd 4028, 4032-33 paras. 10-12 (2000) (*Mastermind Order*) (finding that when an applicant surrenders control of the bidding process to an employee of an entity that will also participate in the bidding process as a prospective service provider, the applicant irreparably impairs its ability to hold a fair and open competitive bidding process); *see also* Universal Service Administrative Company's description of an Open and Fair Competitive Bidding Process at <http://www.universalservice.org/sl/applicants/step03/run-open-fair-competition.aspx>.

⁸ *Plea Agreement* at 4–5. The conspiracy involved schools and school districts located throughout Arkansas, Florida, Illinois, Louisiana, North Dakota, and Texas. *See* Appendix.

⁹ *See United States v. Gloria F. Harper*, Criminal Docket No. 2:10-cr-00326-CJB-ALC, *Factual Basis* at 2, 4 (E.D. La. filed June 2, 2011) (*Factual Basis*).

¹⁰ *Id.*

¹¹ *Id.* at 3. These bribes included \$28,500 in payments to school officials in Louisiana and Arkansas; a \$79,382 payment to a school agent in Florida; and a \$10,000 payment to a school agent in Illinois. *Id.* at 3–4.

¹² *Factual Basis* at 4; *see also United States v. Gloria F. Harper*, Criminal Docket No. 2:10-cr-00326-CJB-ALC, Information at 7 (E.D. La. filed Nov. 18, 2011).

¹³ *Factual Basis* at 4.

million in E-Rate contracts.¹⁴ These actions constitute the conduct or transactions upon which this suspension notice and proposed debarment are based.¹⁵

On February 9, 2012, the United States District Court for the Eastern District of Louisiana sentenced you to serve 30 months in prison followed by three years of supervised release for conspiring to defraud the federal E-Rate program in multiple states.¹⁶ The court also ordered you to pay a \$100 special assessment.¹⁷

Pursuant to Section 54.8(b) of the Commission's rules,¹⁸ upon your conviction the Bureau is required to suspend you from participating in any activities associated with or related to the E-Rate program, including the receipt of funds or discounted services through the E-Rate program, or consulting with, assisting, or advising applicants or service providers regarding the E-Rate program.¹⁹ Your suspension becomes effective upon receipt of this letter or publication of notice of the letter in the Federal Register, whichever comes first.²⁰

In accordance with the Commission's suspension and debarment rules, you may contest this suspension or the scope of this suspension by filing arguments, with any relevant documents,

¹⁴ *Id.*

¹⁵ *Second Report and Order*, 18 FCC Rcd at 9226, para. 70; 47 C.F.R. § 54.8(e)(2)(i). The Bureau has already debarred two co-conspirators, Tyrone Pipkin and Barrett C. White, from participating in the E-Rate program. *See* Tyrone Pipkin, File No. EB-11-IH-1071, Notice of Debarment, 26 FCC Rcd 16822 (Enf. Bur. 2011); Barrett C. White, Notice of Debarment, 26 FCC Rcd 16047 (Enf. Bur. 2011); *see also* Justice News, DEP'T OF JUSTICE, Former Owner of Illinois Technology Company Sentenced to Serve 30 Months in Prison for Role in Multi-State Scheme to Defraud Federal E-Rate Program, February 9, 2012, at <http://www.justice.gov/opa/pr/2012/February/12-at-189.html>.

¹⁶ *United States v. Gloria F. Harper*, Criminal Docket No. 2:10-cr-00326-CJB-ALC, Judgment at 2-3 (filed Feb. 9, 2012). The prison term will run concurrent with any sentence imposed in the Northern District of Illinois, Criminal Docket No. 11-479. *Id.* at 2.

¹⁷ *Id.* at 5.

¹⁸ 47 CFR 54.8(b); *see Second Report and Order*, 18 FCC Rcd at 9225-27, paras. 67-74.

¹⁹ 47 CFR 54.8(a)(1), (d).

²⁰ *Second Report and Order*, 18 FCC Rcd at 9226, para. 69; 47 CFR 54.8(e)(1).

within thirty (30) calendar days after receipt of this letter or after publication of notice of it in the Federal Register, whichever comes first.²¹ Such requests, however, will not ordinarily be granted.²² The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.²³ The Bureau will decide any request to reverse or modify a suspension within ninety (90) calendar days of its receipt of such request.²⁴

II. Initiation of Debarment Proceedings

As discussed above, your guilty plea and conviction of criminal conduct in connection with the E-Rate program is the basis for your immediate suspension from the program as well as a basis to commence debarment proceedings against you. Conviction of criminal fraud is cause for debarment as defined in Section 54.8(c) of the Commission's rules.²⁵ Therefore, pursuant to Section 54.8(b) of the rules, your conviction requires the Bureau to commence debarment proceedings against you.²⁶

As with the suspension process, you may contest the proposed debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within thirty (30)

²¹ 47 CFR 54.8(e)(4).

²² *Id.*

²³ *Id.* 54.8(f).

²⁴ *See Second Report and Order*, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5).

²⁵ "Causes for suspension and debarment are conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural healthcare support mechanism, and the low-income support mechanism." 47 CFR 54.8(c). Associated activities "include the receipt of funds or discounted services through [the federal universal service] support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding [the federal universal service] support mechanisms." *Id.* 54.8(a)(1).

²⁶ *Id.* 54.8(b).

calendar days of receipt of this letter or publication of notice of it in the Federal Register, whichever comes first.²⁷ The Bureau, in the absence of extraordinary circumstances, will notify you of its decision to debar within ninety (90) calendar days of receiving any information you may have filed.²⁸ If the Bureau decides to debar you, its decision will become effective upon either your receipt of a debarment notice or publication of the decision in the Federal Register, whichever comes first.²⁹

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the E-Rate program for three years from the date of debarment.³⁰ The Bureau may set a longer debarment period or extend an existing debarment period if necessary to protect the public interest.³¹

Please direct any response, if sent by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554, to the attention of Joy M. Ragsdale, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4-A236, with a copy to Theresa Z. Cavanaugh, Acting Division Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4-C322, Federal Communications Commission. All messenger or hand delivery filings must be submitted without envelopes.³² If sent by commercial overnight mail (other than U.S. Postal Service (USPS) Express Mail and Priority Mail), the response must be sent to the Federal

²⁷ *Second Report and Order*, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(3).

²⁸ *Second Report and Order*, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5).

²⁹ *Id.* The Commission may reverse a debarment, or may limit the scope or period of debarment, upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. *Id.* 54.8(f).

³⁰ *Second Report and Order*, 18 FCC Rcd at 9225, para. 67; 47 CFR 54.8(d), (g).

³¹ *Id.* 54.8(g).

³² See *FCC Announces Change in Filing Location for Paper Documents*, Public Notice, 24 FCC Rcd 14312 (2009) for further filing instructions.

Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by USPS First Class, Express Mail, or Priority Mail, the response should be addressed to Joy Ragsdale, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-A236, Washington, D.C. 20554, with a copy to Theresa Z. Cavanaugh, Acting Division Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C322, Washington, D.C. 20554. You shall also transmit a copy of your response via e-mail to Joy M. Ragsdale, joy.ragsdale@fcc.gov and to Theresa Z. Cavanaugh, Theresa.Cavanaugh@fcc.gov.

If you have any questions, please contact Ms. Ragsdale via U.S. postal mail, e-mail, or by telephone at (202) 418-1697. You may contact me at (202) 418-1553 or at the e-mail address noted above if Ms. Ragsdale is unavailable.

Sincerely yours,

Theresa Z. Cavanaugh

Acting Chief

Investigations and Hearings Division

Enforcement Bureau

cc: Johnnay Schrieber, Universal Service Administrative Company (via e-mail)
Rashann Duvall, Universal Service Administrative Company (via e-mail)
Juan Rodriguez, Antitrust Division, United States Department of Justice (via e-mail)
Stephanie Toussaint, Antitrust Division, United States Department of Justice (via e-mail)

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